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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC689

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Horseshoe Crabs;
Application for Exempted Fishing Permit, 2013

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of a proposal to conduct exempted fishing; request for comments.

SUMMARY: The Deputy Director, Office of Sustainable Fisheries, has made a preliminary determination that the subject exempted fishing permit (EFP) application submitted by Limuli Laboratories of Cape May Court House, NJ, contains all the required information and warrants further consideration. The proposed EFP would allow the harvest of up to 10,000 horseshoe crabs from the Carl N. Shuster Jr. Horseshoe Crab Reserve (Reserve) for biomedical purposes and require, as a condition of the EFP, the collection of data related to the status of horseshoe crabs within the reserve. The Deputy Director has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Atlantic States Marine Fisheries Commission's (Commission) Horseshoe Crab Interstate Fisheries Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Deputy Director proposes to recommend that an EFP be issued that would allow up to two commercial fishing vessels to conduct fishing operations that are otherwise restricted by

the regulations promulgated under the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act). The EFP would allow for an exemption from the Reserve.

Regulations under the Atlantic Coastal Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Written comments on this action must be received on or before [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Written comments should be sent to Emily Menashes, Deputy Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910. Mark the outside of the envelope "Comments on Horseshoe Crab EFP Proposal." Comments may also be sent via fax to (301) 713-0596. Comments on this notice may also be submitted by e-mail to: derek.orner@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: "Horseshoe Crab EFP Proposal Comments."

FOR FURTHER INFORMATION CONTACT: Derek Orner, Office of Sustainable Fisheries, (301) 427-8567.

SUPPLEMENTARY INFORMATION:

Background

Limuli Laboratories submitted an application for an EFP dated January 9, 2013, to collect up to 10,000 horseshoe crabs for biomedical and data collection purposes from the Reserve. The applicant has applied for, and received, a similar EFP every year from 2001-2012. The current EFP application specifies that: (1) the same methods would be

used in 2013 that were used in years 2001-2012, (2) at least 15 percent of the bled horseshoe crabs would be tagged, and (3) there had not been any sighting or capture of marine mammals or endangered species in the trawling nets of fishing vessels engaged in the collection of horseshoe crabs since 1993. The project submitted by Limuli Laboratories would provide morphological data on horseshoe crab catch, would tag a portion of the caught horseshoe crabs, and would use the blood from the caught horseshoe crabs to manufacture Limulus Amebocyte Lysate (LAL), an important health and safety product used for the detection of endotoxins. The LAL assay is used by medical professionals, drug companies, and pharmacies to detect endotoxins in intravenous pharmaceuticals and medical devices that come into contact with human blood or spinal fluid.

Result of 2012 EFP

No horseshoe crabs were collected from the Reserve by the applicant during the 2012 season. Thus, no results were submitted. The last year in which the applicant actually collected horseshoe crabs authorized under an EFP was 2011. Results from 2011 were published in the Federal Register on September 10, 2012 (77 FR 55457), and thus are not repeated here. Data collected under previous EFPs were supplied to NMFS, the Commission and the State of New Jersey.

Proposed 2013 EFP

Limuli Laboratories proposes to conduct an exempted fishery operation using the same means, methods, and seasons proposed/utilized during the EFPs in 2001-2012.

Limuli proposes to continue to tag at least 15 percent of the bled horseshoe crabs as they

did in 2011. NMFS would require that the following terms and conditions be met for issuance and continuation of the EFP for 2013:

1. Limiting the number of horseshoe crabs collected in the Reserve to no more than 500 crabs per day and to a total of no more than 10,000 crabs per year;
2. Requiring collections to take place over a total of approximately 20 days during the months of July, August, September, October, and November. (Horseshoe crabs are readily available in harvestable concentrations nearshore earlier in the year, and offshore in the Reserve from July through November.);
3. Requiring that a 5 ½ inch (14.0 cm) flounder net be used by the vessel to collect the horseshoe crabs. This condition would allow for continuation of traditional harvest gear and adds to the consistency in the way horseshoe crabs are harvested for data collection;
4. Limiting trawl tow times to 30 minutes as a conservation measure to protect sea turtles, which are expected to be migrating through the area during the collection period, and are vulnerable to bottom trawling;
5. Requiring that the collected horseshoe crabs be picked up from the fishing vessels at docks in the Cape May Area and transported to local laboratories, bled for LAL, and released alive the following morning into the Lower Delaware Bay; and
6. Requiring that any turtle take be reported to NMFS, Northeast Region, Assistant Regional Administrator of Protected Resources Division, within 24 hours of returning from the trip in which the incidental take occurred.

As part of the terms and conditions of the EFP, for all horseshoe crabs bled for LAL, NMFS would require that the EFP holder provide data on sex ratio and daily

harvest. Also, the EFP holder would be required to examine at least 200 horseshoe crabs for morphometric data. Terms and conditions may be added or amended prior to the issuance of the EFP.

The proposed EFP would exempt two commercial vessels from regulations at 50 CFR 697.7(e) and 697.23(f), which prohibit the harvest and possession of horseshoe crabs from the Reserve on a vessel with a trawl or dredge gear aboard.

Authority: 16 U.S.C. 1801 et seq.

Dated: May 15, 2013.

Kara Meckley,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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